THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No.7497 OF 2007

DATED: 06-10-2007

Between:

A. Naga Raju and others

.. Petitioners

and

Northern Power Distribution Company of A.P. Limited, rep. by its Managing Director, Warangal and others.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No.7497 OF 2007

ORDER:

This writ petition is filed questioning the action of the respondents in fixing the criteria of production of E.P.F. account number under the notification issued for recruitment of contract Junior Lineman.

It appears, the petitioners are all working as contract labour in various sections of the office of the Divisional Engineer, OP, Northern Power Distribution Company of A.P., Warangal. It is their grievance that in pursuance of the revised notification dated 21.10.2006, all of them have applied for the post of Contract Junior Lineman, along with others, and they were interviewed on 28.05.2007, but their case was not considered on the ground that they were not covered under E.P.F. and they did not produce E.P.F. account number. According to the petitioners, the fixation of criteria of production of E.P.F. account number is arbitrary and illegal.

The respondents filed a detailed counter-affidavit denying the allegations made by the petitioners and it is asserted that those who have been in service as on 06.06.2006 were all accommodated as per clause 6.I (iv) (a) of the notification. The petitioners, who are presently working as contract labour in Transco/Discoms, come into second category of clause 6.I (iv) (a) and they should produce E.P.F. account

number, but admittedly they have not produced any E.P.F. account number.

According to the learned counsel for the petitioners, presently serving contract labour, who are manning sub-stations, Transco/Discoms, were not asked to produce E.P.F. account number; whereas the petitioners, who are also working as contract labour in various sections of the office of the Divisional Engineer, were insisted upon production of E.P.F. account number, which is nothing but discrimination. Both the categories under clause 6.I (iv) (a) are presently working as contract labour. Therefore, insisting the petitioners alone to produce E.P.F. account number is arbitrary and illegal. The criteria applied for the other contract labour, who are manning sub-stations, Transco/Discoms, also should be applicable to the petitioners herein.

The learned counsel for the respondents strenuously contended that the petitioners 6, 11, 15, 16, 18, 22, 24 and 26 were not working as on the date of issuance of notification and, therefore, they cannot be considered as presently serving contract labour and, as such, their case cannot be considered for appointment. Further, the petitioners 10, 14, 19 and 25 have not participated in the pole-climbing test conducted by the respondents, in spite of issuance of call letters. Insofar as the other petitioners also, the learned counsel for the respondents disputed the fact that they were working as on the date of notification i.e. 06.06.2006.

Whereas, the learned counsel for the petitioners strenuously contended that once the notification has been revised and the revised notification, dated 21.10.2006, is issued, it should be taken into

consideration as to whether the presently serving contract labour were working as on 20.10.2006, but not as on 06.06.2006. The learned counsel for the petitioners further stated that though as many as 277 vacancies were sought to be filled up, only 200 candidates have been selected and appointed and the remaining 77 vacancies are not filled up in view of the fact that some verification of the certificates/court cases are still pending. When asked as to whether those 200 candidates have produced E.P.F. account number, the learned counsel for the respondents simply stated that they satisfied the criteria for selection and, therefore, they have been appointed. But, there is no assertion that all of them have produced E.P.F. account number.

The learned counsel for the petitioners further stated that as per the agreement entered into between the contractors and the respondent organization, there was no condition that E.P.F. contribution must be paid and E.P.F. account number should be obtained in favour of contract labour engaged by the contractor. Further, the certificates produced by the petitioners showing that they are working under the contractor engaged by the respondent organization and certified by the officers of the respondent organization.

Heard both sides.

Clause 6.I (iv) (a) reads as under:

"6.I (iv) (a) presently serving contract labour who are working now for manning of sub-stations of Transco/Discoms with recorded evidence through Sub-stations Log Books to be certified by the concerned Divisional Engineer.

OR

Presently serving contract labour for any other works in Transco/Discoms with recorded evidence of EPF number in his name to be certified by the concerned DE."

As contended by the learned counsel for the petitioners, both the categories of employees, under the said clause, are presently working as contract labour, but the production of E.P.F. account number is not being insisted insofar as first category of employees is concerned, whereas in respect of second category, the E.P.F. account number is being insisted upon. The reason seems to be that the petitioners are working in various sections in the office of the Divisional Engineer and as such they are being asked to produce the E.P.F. account number. The candidates of both the categories are working in the respondent Organization with the contractor. Once this is so, no doubt can be entertained as to the working of the petitioners with the respective contractors for the purpose of insisting upon to produce E.P.F. account number. Merely, the petitioners have not produced the evidence as to E.P.F. account number, their cases ought not to have been rejected by the respondents.

Insisting upon production of E.P.F. account number from the petitioners seems to be not logical or rationale. While presently working contract labour manning sub-stations, Transco/Discoms were not insisted upon production of such E.P.F. account number, the petitioners, who are presently working as contract labour for other works in Transco/Discoms, were insisted upon production of evidence regarding E.P.F. account number, which is unwarranted. It is not the case of the respondents that those who have been appointed already and those who are presently working for manning the sub-stations, Transco/Discoms have produced such E.P.F. account number. In fact,

they never insisted upon production of such number from those who fall into the first category of clause 6.I (iv) (a). Therefore, in my opinion, fixing the criteria of production of E.P.F. account number is unwarranted, irrational and no object is sought to be achieved with this condition. Further, when once both the categories of employees are presently working, insisting upon production of E.P.F. account number from one category of employees and not insisting upon the other category of employees itself is discriminatory.

Under these circumstances, the respondents are directed to consider the case of the petitioners for appointment to the post of Junior Lineman (contract), without insisting upon production of E.P.F. account number, if the petitioners satisfy all other criteria laid down by the respondents, and pass appropriate orders, within a period of four weeks from the date of receipt of a copy of this order, and communicate the same to the petitioners.

With the above direction, the writ petition is disposed of. No order as to costs.

C.V. RAMULU, J

6th October, 2007.

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